

Message Text

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ACTION ARA-20

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FM AMEMBASSY PORT AU PRINCE

TO SECSTATE WASHDC IMMEDIATE 8353

LIMITED OFFICIAL USE PORT AU PRINCE 1491

E.O. 11652: N/A

TAGS: ETRD, EIND, HA

SUBJECT: DUPONT CARIBBEAN

REF: STATE 167438

1. ACCORDING TO EMBASSY LAWYER, PIERSON HAS NO FURTHER LEGAL PROCEDURES OPEN TO HIM IN HAITI. ORIGINAL COURT FINDING, NOW CONFIRMED BY SUPREME COURT, IS THAT CONTRACT IS NULL AND VOID, BASED ON FINDING OF NON-PERFORMANCE OF CONTRACT BY PIERSON. THUS PIERSON NOT ONLY CANNOT CLAIM REIMBURSEMENT FOR FUNDS EXPENDED, BUT IS ALSO LIABLE FOR BOTH HIS AND GOH COURT COSTS.

2. ALTHOUGH AS SUGGESTED REFTEL EMBASSY OR DEPARTMENT COULD APPROACH GOH SUGGESTING POSSIBLE WAYS TO ARRIVE AT AN "AMICABLE" SOLUTION, FOLLOWING FACTORS SEVERELY LIMIT POSSIBILITIES OF GOH ACCEPTANCE OF ANY SUGGESTIONS WE MAY CONSIDER MAKING:

A. GOH EVIDENTLY CONSIDERS PIERSON CONTRACT A CLOSED MATTER AND NOW THAT LAST LEGAL AVENUES EXHAUSTED IS MOST UNLIKELY TO RESUME ANY NEGOTIATIONS WITH HIM.

B. PIERSON'S PRESENT POSITION THAT EITHER CONTRACT BE HONORED OR THAT HE BE PAID \$5 MILLION NOT CONDUCTIVE TO AMICABLE SOLUTION. FOR ONE THING, GOH DOES NOT HAVE \$5 MILLION AVAILABLE OR ANYTHING APPROACHING THAT SUM. MORE IMPORTANTLY,

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THE EMBASSY CAN SEE NO POSSIBILITY OF: (1) GOH REINSTITUTING

DCI CONTRACT; (2) GOH ENTERING INTO ANOTHER CONTRACT WITH PIERSON; OR (3) GOH ENTERING INTO ANY CONTRACT PROVIDING A CONCESSION TO DEVELOP THE ILE DE LA TORTUE THAT FAILS TO MEET STRICT CRITERIA OF SOVEREIGNTY NOW BEING APPLIED. THERE IS NO DOUBT THAT PRESIDENT DUVALIER AND MOST HAITIAN LEGAL AUTHORITIES CONSIDER THAT THE CONTRACT BETWEEN DCI AND THE HAITIAN STATE WAS UNCONSTITUTIONAL. OVER PAST THREE YEARS HAITIAN VIEWS ON NATIONAL SOVEREIGNTY AND SENSITIVITY TO ANY INFRINGEMENT OF THAT SOVEREIGNTY HAVE BECOME MORE PRONOUNCED, TO THE POINT OF DEVELOPING INTO A ROUGH POLICY FRAMEWORK. (THE GOH IN FACT IS TAKING STEPS CURRENTLY TO RENEGOTIATE SEVERAL OTHER CONTRACTS IN ORDER TO ELIMINATE ALL CLAUSES PROVIDING FOREIGN-OWNED COMPANIES WITH A MONOPOLY POSITION, EVEN FOR A LIMITED PERIOD OF TIME.)

C. LAST OCCASION ON WHICH GOH AND PIERSON HELD CONVERSATIONS TO ARRIVE AT AN AMICABLE SOLUTION PROVED COMPLETE FIASCO. AT URGING OF HAITIAN AMBASSADOR TO U.S. BOUCHETTE, A MEETING WAS ARRANGED IN MARCH 1974 ATTENDED BY PIERSON, HIS ATTORNEY MERCERON, AND GOH MINISTERS FOURCAND AND JEANTY. PIERSON CAME OUT OF THE MEETING CLAIMING THAT THE MINISTERS HAD AGREED TO HIS NEW PROPOSALS AND HE REPEATED THAT CLAIM BOTH IN TALKS WITH U.S. OFFICIALS AND IN TELEGRAMS TO HAITIAN OFFICIALS. ON THE OTHER HAND, THE MINISTERS (AND PIERSON'S ATTORNEY, GERALD MERCERON, WHO WAS PRESENT) TOLD EMBASSY OFFICERS THAT HAITIANS HAD STRESSED FACT THEY WERE AUTHORIZED NOT TO NEGOTIATE BUT ONLY TO HEAR PIERSON'S CASE AND REPORT TO PRESIDENT. IT THUS SEEMS UNLIKELY THAT ANY HAITIAN MINISTER WOULD BE WILLING TO ENTER INTO TALKS WITH PIERSON SINCE IN HAITIAN VIEW IT APPEARS THAT AFTER A MEETING PIERSON UNDERSTANDS AND REPORTS AS FACT WHAT HE WANTS AND THINKS WAS SAID, RATHER THAN WHAT WAS ACTUALLY SAID. THIS IS EVIDENTLY NO NEW PHENOMENON IN THEIR DEALINGS WITH PIERSON, AND LAST MEETING APPEARS TO HAVE CONFIRMED THEIR CONCLUSION THAT PIERSON CANNOT BE DEALT WITH REASONABLY.

D. PIERSON TESTIMONY BEFORE CONGRESS, WHEN IT BECOMES KNOWN IN DETAIL TO GOH, WILL ONLY SERVE TO CONFIRM GOH VIEWS AS TO PIERSON'S UNRELIABILITY AND MAKE IT EVEN MORE UNLIKELY THAT A MEANINGFUL DIALOGUE BETWEEN DCI AND GOH CAN BE RESURRECTED. ISHAM

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